

IN THE PUBLIC SERVICE COMMISSION OF THE STATE OF DELAWARE

**IN THE MATTER OF REVIEWING)
CUSTOMER ENERGY CHOICE IN) PSC DOCKET 15-1458
THE STATE OF DELAWARE)**

**Delmarva Power & Light Company's
Comments and Recommendations
In Response to:**

**The November 13, 2015 Joint Findings
and Recommendations of the
Delaware Public Service Commission Staff
and the Division of the Public Advocate
for the Electricity Affordability Committee**

Dated: December 4, 2015

I. INTRODUCTION

On November 13, 2015, the Delaware Public Service Commission Staff (“Staff”) and the Division of the Public Advocate (“DPA”) issued their Joint Findings and Recommendations for Electricity Affordability Committee Consideration (the “Joint Report”). In the Joint Report, Staff and DPA make numerous recommendations for consideration by the Electricity Affordability Committee (“EAC”). Many of the recommendations made in the Joint Report concern how the Commission should move forward on multiple requests made by the Retail Energy Supply Association (“RESA”) on behalf of choice suppliers.¹

Staff and DPA developed and issued the Joint Report pursuant to a highly expedited schedule which did not afford Staff and DPA with the time needed to fully evaluate the multiple complicated and important issues involved. Accordingly, on all issues but one, Staff and DPA recommend further (yet prompt) Commission analysis in order to implement changes in a manner that will ensure the right outcome for customers.² Delmarva recognizes the time constraints under which Staff and DPA were required to operate and appreciates the effort and care that Staff and DPA exercised in developing the Joint Report. The following constitutes Delmarva Power’s comments on certain findings and recommendations made by Staff and DPA in the Joint Report.

II. DELMARVA POWER’S COMMENTS AND RECOMMENDATIONS

A. Moving Forward With A State Sponsored Choice Provider

Senate Substitute No. 1 for Senate Bill 160, FY2016 Bond and Capital Improvements Act of the State of Delaware (the “Bond Bill”) was approved in July 2015. Section 68 of the Bond Bill created the EAC and charged it with evaluating an opt-in electricity program. The Delaware Secretary of State serves as the Chair of the EAC. If the EAC determines that an opt in choice program will offer certain benefits to residential and small business customers, the Secretary of State will have the authority to select and contract with a PSC-certified energy provider with sufficient fiscal and technical experience, to implement the program.

Delmarva Power Comments: The Bond Bill is clear that if the EAC determines that an opt in choice program will offer certain benefits to residential and small business customers, the Secretary of State will have the authority to select and contract with a PSC-certified energy provider to implement the program. If the Secretary of State and the EAC determine, based upon evidence developed during the EAC process, that a State sponsored opt-in choice program offered by a specific choice provider will provide the requisite benefits to customers, then Delmarva Power will support the decision of the EAC and will work

¹ RESA is a trade association that represents over 20 choice providers. See, <http://www.resausa.org/>. Through its outside counsel, RESA has been active in Delaware Commission dockets that concern retail electric choice and Standard Offer Service.

² As these comments address at pages 2 -3, the one issue for which Staff and DPA did not recommend further analysis by the Commission is whether the Secretary of State (upon recommendation by the EAC) should select and contract with a PSC-certified energy provider to offer a choice program.

with the Secretary of State, the Commission, Staff, DPA and other stakeholders to implement the program.

B. Delmarva Power Supports Customer Choice

At pages 14 – 16 of the Joint Report, Staff and DPA note that there were at least two misconceptions demonstrated during the working sessions that took place on October 22 and 29, 2015: 1. That customers are missing out on significant energy supply savings by not shopping for a third party supplier and 2. That it is somehow in Delmarva Power's best interest to act as a barrier to customer choice. Staff and DPA explained that those misconceptions are incorrect.

Delmarva agrees with Staff and DPA on both issues and commends Staff and DPA for their efforts to clarify the facts. With respect to the allegation, that Delmarva is "anti-choice," Staff and DPA correctly explain that Delmarva Power's reasonable allowance for retail margin ("RARM") for operating the Standard Offer Service ("SOS") supply program is not affected by the percentage of customers who decide to remain on SOS supply. In other words, Delmarva Power is not adversely impacted if more customers leave SOS and choose competitive suppliers. A successful choice market that provides customers who chose to shop with greater choice and lower rates would not only be beneficial to customers, but would be beneficial to Delmarva as well. Customers paying less for energy supply would result in increased customer satisfaction. Satisfied customers result in an improved atmosphere for everyone in Delaware, including Delmarva Power. Simply stated, Delmarva Power is pro-customer choice.

C. A Purchase of Receivables (POR) Program Should Be Implemented

Staff/DPA Recommendation: At page 18 of the Joint Report, Staff and DPA make the following recommendation:

"The Delaware Public Service Commission should implement a POR program, either by implementing it as part of the Regulation 49 docket process or by opening a new docket to address this issue specifically."

Delmarva Power Comments: Delmarva Power does not object to developing and implementing an appropriate POR program for choice providers in Delaware. POR programs are currently in place for Delmarva Power, Maryland and for Delmarva Power's affiliate utilities: Atlantic City Electric, Pepco Maryland and Pepco D.C. The POR programs in Maryland, New Jersey and D.C. were developed through thorough regulatory dockets in those jurisdictions. A similar thorough regulatory review should occur in Delaware in order to develop an appropriate POR program.

The potential for a POR program in Delaware was discussed during the Docket 49 workshops in 2013. Although significant progress was made, Delmarva Power, Staff, and the American Association of Retired Persons ("AARP") each had significant concerns with various POR provisions sought by RESA (on behalf of choice suppliers) in the Docket 49 workshops.

Several important POR program issues remain to be addressed, some of which will likely require resolution by the Commission. Although Delmarva Power, RESA and other Docket 49 participants have made significant progress toward the development of a proposed POR program for Delaware, finalizing an appropriate proposed POR program will require additional work on the part of Staff, DPA, Delmarva

Power, AARP and suppliers. A proposed POR program will then need to be carefully considered by the Commission. It is also important to note that if a POR program is approved by the Commission, implementation of a program will require programming and testing of Delmarva Power's billing and customer information system.

Delmarva Power's Recommendation: Delmarva Power recommends that an appropriate proposed POR program be developed/finalized during Commission workshops.

D. More Research Is Required Regarding Alleged Limitations on Utility Bills

Staff/DPA Recommendation: At page 19 of the Joint Report, Staff and DPA state:

"Allowing suppliers greater space on Delmarva Power utility bills for branding or marketing messages may increase customer awareness and engagement regarding electric choice. Suppliers argued that having greater space on the bills would allow them more opportunity to engage customers not only on price, but other services that a supplier may offer. The balance that must be struck is between allowing suppliers greater space on utility bills and maintaining a reasonable size for the bills, both from an expense standpoint and customer understanding standpoint."

Delmarva Power representatives noted that with the implementation of the new Solution One billing system in January 2016, suppliers were given additional space for messaging on Delmarva Power bills. This issue could not be fully vetted in the workshops but should be explored further (emphasis added). Finally, this issue appears to be less important compared to other barriers brought up during the workshops and should not receive the same priority as customer awareness, POR, or switching issues."

Delmarva Power Comments: Delmarva Power agrees with the recommendation of Staff and DPA that this issue should be explored fully in further workshops. As Staff and DPA's recommendation notes, with the implementation of Delmarva Power's new billing and customer information system in January 2015, choice suppliers were provided with additional space on bills to use for communicating with their choice customers. Choice suppliers are provided with 25 line items for charges to their supply customers and an additional 320 characters for messages. Suppliers have not been utilizing that available capacity provided on Delmarva Power bills, however, which calls into question RESA's assertions that its member suppliers are not provided with adequate space on Delmarva's bills to communicate with their supply customers.

Delmarva Power's Recommendation: Delmarva supports the Commission workshops recommended by Staff and DPA, which will enable the parties to resolve this issue.

E. Switching Supplier Issues Should Be Addressed in the Short Term

Staff/DPA Recommendation: At pages 19 – 20 of the Joint Report, Staff and DPA state:

“The issues identified regarding the difficulty of switching suppliers should be resolved in the short term (emphasis added) by PSC and DPA Staff. Other PHI companies have (or are in the process of) implementing many of the ideas suggested by suppliers to reduce the timeframe and hassles associated with switching.

Although Delmarva Power would certainly incur programming and training costs to implement the changes, it’s reasonable to assume those costs would be minimized because of the institutional knowledge acquired implementing the same processes in sister companies.

Additionally, none of the switching issues identified in the workshops appear to be extremely difficult to solve technically or procedurally, (emphasis added) and in fact these issues have been solved in many other states. The PSC should address this issue by implementing changes as part of the Regulation 49 docket process or by opening a new docket to address these issues specifically (emphasis added).”

Delmarva Power Comments: Delmarva Power is concerned that this recommendation *could* be misinterpreted as a finding by Staff and DPA that none of the switching issues identified during the two EAC workshops would be challenging to resolve or that the switching issues could be resolved in a brief period of time without a detailed review by Staff, DPA, Delmarva Power, the Commission and other stakeholders. Delmarva Power does not interpret the Staff and DPA recommendation in that manner, however. In fact, Staff and DPA specifically recommend that these issues should be reviewed and, if necessary, implemented “*as part of the Regulation 49 docket process or by opening a new docket to address these issues specifically.*” Delmarva Power agrees that these issues should be carefully reviewed either as part of Regulation Docket 49 or through a new Commission docket.

In order to adopt new switching procedures, the customer switching demands being made by RESA and other suppliers need to be carefully explored by Staff, DPA and other interested parties. It is critically important that switching requirements be incorporated into Commission choice supplier rules, which could be accomplished as part of the currently ongoing Docket 49 rulemaking process or as part of a later process that would modify those rules.

One reason why it is so important to incorporate switching requirements into Commission rules is the fact that the current Docket 49 rulemaking process has focused, in large part, on mandatory disclosures that choice suppliers must make to customers regarding variable choice supply rates. Unfortunately, many choice customers suffered the dangers posed by variable supply rates during the polar vortex in February 2013, when certain choice customers whose contracts allowed for variable supply rates experienced shocking supply price increases. As the Commission will recall, many choice customers reported that they were not aware that their contracts with choice suppliers included variable supply rates that could spike in the manner in which they did. In order for Commission choice supplier rules to ensure that choice suppliers fully inform customers of the risks and potential consequences of

variable choice supply rates, the same rules will also need to address how customers can “switch” away from an unfavorable variable rate plan. These are important consumer protection issues that need to be carefully considered before switching changes are implemented.

It is also important to understand that if, after a careful review into the issue of customer switching, it is determined that changes to the switching rules should be adopted, changes will involve significant programming and testing of Delmarva Power’s billing and customer information system. Staff and DPA comment that some of the switching changes requested by RESA during the two EAC workshops appear to be under consideration by Delmarva’s “sister companies” and that “[a]lthough Delmarva Power would certainly incur programming and training costs to implement the changes, it’s reasonable to assume those costs would be minimized because of the institutional knowledge acquired implementing the same processes in sister companies.”

The “sister companies” reference appears to be to Maryland Docket RM 54. In Maryland RM 54, the Maryland Public Service Commission is considering the adoption of revisions to Maryland’s switching rules. The Maryland revisions propose that utilities would process an electronic transaction for enrollment within three (3) days after receipt of the electronic transaction and that the utility may process an enrollment twice per billing cycle per customer. In addition, the Maryland revisions propose that a customer’s decision to drop its choice supplier and return to SOS would take effect within three (3) business days after receipt of the electronic transaction. In the MD proceedings, Pepco MD, Delmarva Power MD and other Maryland utilities have stated that while they do not object to those rule changes, they will need adequate time to be able to implement them. Pepco MD and Delmarva Power MD have indicated that they will need between 18 and 24 months to implement the proposed Maryland rule changes.

Delmarva Power’s Recommendation: Delmarva supports conducting a careful review of RESA’s switching demands in a prompt manner, but not at the expense of thoroughness and customer protection. Delmarva Power supports the Staff/DPA recommendation that the switching issues be carefully investigated “as part of the Regulation 49 docket process or by opening a new docket to address these issues specifically.”

F. Choice Advocacy Implementation Costs Need Consideration

Staff/DPA Recommendation: At pages 21 – 22 of the Joint Report, Staff and DPA state:

Staff/DPA Recommendation: “Many of the changes being recommended come with inherent costs for Delmarva Power system changes and personnel training, for website creation and maintenance and for monitoring of enhancements and issues. In each case the “Who Should Pay” question quickly comes to the forefront of concern. *** There are many Delmarva Power customers that are already resentful of statewide benefit costs being charged on their bills, and additional costs to enhance customer choice are not likely to be favorably received.

Conversely, applying these costs to only the third party suppliers increases the costs that they and their customers must absorb and further reduces the opportunity for customer savings. Given that Delaware law requires customer choice and that various legislative

officials want to develop a vibrant competitive market in Delaware, it would seem the costs to develop such a market must be borne by the customers that have access to such a market - current Delmarva Power customers. Before moving forward with the recommendations contained in this report, Staff believes it is critical for the total costs and impact on Delmarva's customers to be identified (emphasis added). Rough cost estimates are noted below:

<i>Customer Choice Enhancement</i>	<i>Estimated Cost</i>
<i>Statutory Pilot Implementation</i>	<i>\$30,000</i>
<i>Customer Awareness & Education Website</i>	<i>\$850,000</i>
<i>Purchase of Receivables Implementation</i>	<i>\$300,000</i>
<i>Elimination of Customer Discrimination</i>	<i>Legislative Action</i>
<i>Delmarva Bill Enhancements for Suppliers</i>	<i>\$750,000</i>
<i>Elimination of Switching Issues</i>	<i>\$400,000</i>
<i>Quarterly Communications Workshops</i>	<i>\$10,000</i>
<i>TOTAL DELMARVARESIDENTIAL CUSTOMER COST</i>	<i>\$2,340,000</i>

As currently provided by Delaware Code, the recommended enhancements to improve customer choice in Delaware for Delmarva's 300,000 plus customers would result in a one-time cost of about \$8.00 per residential and small commercial customer.

Delmarva Power could request cost recovery through a rate case filing, which would be subject to staff and intervenor review and ultimately decided by the Commission. (emphasis added). *Depending on the approach to cost recovery, this could be amortized over five years for about \$0.85 per month on the residential customer bill."*

Delmarva Power Comments: Delmarva Power's comments on this issue are divided into two sections below: **1.** Developing Reliable Cost Estimates and **2.** Who Should Pay for the Costs Incurred at the Request of the Choice Providers?

1. Developing Reliable Cost Estimates:

As Staff and DPA state in their Joint Report, the \$2,340,000 estimate contained in the Joint Report is simply a “rough cost estimate.” The Commission cannot reach a conclusion regarding whether any of the changes sought by RESA and other choice suppliers should be implemented until a thorough cost estimate can be developed. In order to develop a reasonable cost estimate, workshops must be conducted to flesh out: (a) exactly what changes will be made, (b) exactly what programs will be implemented, (c) what a proposed choice website will consist of (*including, among multiple other issues: who will create it and maintain it, what capabilities will it have, etc.*), (d) the cost of programming, testing and maintaining a POR program, potential bill message enhancements, switching changes, (e) the extent of, methods and media to be utilized for customer education programs, and other issues.

Delmarva Power’s Recommendation: Delmarva supports promptly moving forward to explore the many issues and costs through Commission workshops with Staff, DPA, RESA and other interested stakeholders.

2. Who Should Pay for Costs Incurred at the Request of Choice Suppliers?

- (a) All Customers (including non-choice customers) or
- (b) Those Who Benefit from the Choice-related Costs?

Up to this point, Delmarva Power’s Comments have principally agreed with the Staff and DPA recommendations contained in the Joint Report. The Staff/DPA recommendation to collect the costs of all the choice related actions from all of Delmarva Power’s customers through distribution rates, however, is a recommendation that Delmarva Power cannot support at this time.

Approximately 90% of Delmarva Power customers have decided to remain SOS customers. Placing costs incurred for activities demanded by RESA members and other choice suppliers in distribution base rates will result in all of Delmarva Power’s customers being forced to pay for the costs incurred for the benefit of the choice suppliers. In other words, 90% of the costs for the programs demanded by the choice suppliers would be recovered from customers who have decided that they want nothing to do with the choice providers. Because these changes/costs are being demanded by and for the benefit of competitive choice suppliers, those competitive suppliers – as opposed to all of Delmarva’s customers (90% of whom are SOS customers who have chosen not to shop) – should incur the costs.

Determining the best way to recover purely choice related costs through choice rates needs to be carefully explored by Staff, DPA, Delmarva Power and other Stakeholders. One mechanism to be reviewed in workshops should be the mechanism for recovery of specific choice related costs that has worked exceptionally well in Delmarva Power MD, Pepco MD and Pepco DC. That recovery mechanism is the “discount rate” incorporated into the choice purchase of receivables (“POR”) program. In all three of those Delmarva Power affiliated companies, the costs of developing, programming, implementing and maintaining the POR program implemented at the request of choice suppliers have been recovered through the discount rate applied to the POR

program. Not only has that method been successful at recovering all the costs related to developing, implementing and maintaining the POR program, but the discount rate for choice suppliers in Maryland and DC is either zero or nearly zero, which means that collecting the costs of the POR program through the amounts paid to choice suppliers has resulted in an immaterially small impact upon the revenue of choice suppliers.

In exchange for the immaterial discount rate, choice suppliers are guaranteed timely payment from Delmarva Power of over 99% of all amounts owed to them by their choice customers. In other words, all risk of both (a) customers paying late and (b) non-payment from customers has been removed from the choice suppliers by the POR program. Choice suppliers get paid by Delmarva Power, even if their choice customers do not pay on time or do not pay at all. The discount rate is taken into consideration by the choice suppliers in pricing offers to their customers, which means that 100% of the costs of the POR is collected from the choice suppliers and choice customers through the rates offered by the choice suppliers. As a result of that process SOS customers in Maryland and DC who do not wish to participate in customer choice are not forced to pay for the benefits to choice suppliers and choice customers.

Delmarva Power's Recommendation:

- (a) Workshops should be Promptly Initiated: The issue of how choice related costs should be recovered should be thoroughly explored by Staff, DPA, Delmarva Power, choice providers and other stakeholders through Commission workshops before those costs are incurred. The goal should be to collect the proposed choice related costs through choice rates, rather than through customers who have decided not to participate in the choice program (i.e., not through distribution rates). Collection of costs of programs requested by the choice providers should be collected from non-choice customers only if no mechanism for collecting the costs through choice rates is available.
- (b) A Regulatory Asset Should be Authorized: Regardless of whether the costs are ultimately recovered through the POR, distribution rates, or some other mechanism, it is evident that Delmarva Power will be required to incur significant costs before actual recovery of costs begins. Accordingly, Delmarva Power respectfully requests that the Commission authorize Delmarva Power to establish a regulatory asset to remain in place until a mechanism enabling Delmarva to recover costs of and on the changes and programs requested by the choice suppliers is placed into effect.

**G. Staff, DPA and the Commission
Should Obtain Commitments From RESA and Suppliers**

One risk of incurring the significant costs of the proposed choice related programs and changes exists that is unique to Delaware. Compared to surrounding states, very few choice suppliers actually operate in Delaware. Choice suppliers have consistently informed Delmarva Power that their reluctance to operate in Delaware is due to two main issues: (1) Delaware has a small load (*i.e., a small potential market size*) compared to other states. The fact that only Delmarva Power customers are able to shop in Delaware exacerbates that problem. (2) Choice suppliers have consistently reported that due to the

“Swiss cheese” shape of Delmarva Power’s Delaware service territory, which is interspersed with 9 municipal utilities and the Delaware Electric Cooperative, it is difficult for door to door choice marketers to determine whose territory they are in. Those two unique “Delaware challenges” to choice will not be corrected or lessened by any of the recommendations made by Staff, DPA or Delmarva Power.

During the two October EAC workshops, RESA and the other choice suppliers were asked whether they would agree to market and operate in Delaware if the portfolio of programs and changes they request are implemented in Delaware. Regrettably, not a single choice supplier, or RESA itself, was willing to commit to coming to Delaware, even if Delaware customers incur the costs of implementing the many programs and changes that RESA and the choice suppliers are demanding. Accordingly, there is a significant risk that Delmarva Power’s customers could be burdened with millions of dollars of additional choice-related costs out of which no benefits will materialize.

Delmarva Power’s Recommendation: Staff, DPA, Delmarva Power and interested stakeholders should work together to obtain concrete commitments from RESA and the choice suppliers to actively operate in Delaware if costs related to the numerous choice related programs and changes are incurred.

III. SUMMARY OF DELMARVA POWER’S RECOMMENDATIONS

For the convenience of the Commission, Delmarva Power’s Recommendations, described in detail above, are summarized below:

- A. **Moving Forward With A State Sponsored Choice Provider:** If, pursuant to the Bond Bill, the Secretary of State and the EAC determine, based upon evidence developed during the EAC process, that a State sponsored opt-in choice program offered by a specific choice provider will provide the requisite benefits to customers, then Delmarva Power will work with the Secretary of State, the Commission, Staff, DPA and other stakeholders to implement the program.
- B. **Delmarva Power Supports Customer Choice:** No recommendation required.
- C. **A Purchase of Receivables (POR) Program Should Be Implemented:** Delmarva Power recommends that an appropriate proposed POR program be developed/finalized during workshops.
- D. **More Research Is Required Regarding Alleged Limitations on Utility Bills:** Delmarva supports the recommendation of Staff and DPA to conduct workshops to resolve these issues.
- E. **Switching Supplier Issues Should Be Addressed:** Delmarva Power supports the Staff/DPA recommendation that the switching issues be carefully investigated either as part of the Regulation 49 docket process or by opening a new docket to address the issues.

F. **Choice Advocacy Implementation Costs:**

1. **Developing Reliable Cost Estimates:** Delmarva supports promptly moving forward to explore the many issues and costs through workshops with Staff, DPA, RESA and other interested stakeholders.
2. Who Should Pay for Costs Incurred at the Request of Choice Suppliers?
(a) All Customers or (b) Those Who Benefit from the Choice-related Costs:
 - a. **Workshops Should be Promptly Initiated:** The issue of how choice related costs should be recovered should be thoroughly explored through workshops before those costs are incurred. The goal should be to collect the proposed choice related costs through choice rates, rather than through customers who have decided not to participate in the choice program. Collection of costs of programs requested by the choice providers should be collected from non-choice customers only if no mechanism for collecting the costs through choice rates is available.
 - b. **A Regulatory Asset Should be Authorized:** Because Delmarva Power will be required to incur significant costs before actual recovery of costs begins, Delmarva Power respectfully requests that the Commission authorize Delmarva Power to establish a regulatory asset.

G. **RESA and the Choice Suppliers Should Commit to Delaware Before Costs are Incurred:**

Staff, DPA, Delmarva Power and interested stakeholders should work together to obtain concrete commitments from RESA and the choice suppliers to actively operate in Delaware if costs related to the numerous choice related programs and changes are incurred.

Respectfully Submitted,



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